II. Remarks

Reconsideration and re-examination of this application in view of the above amendments and the following remarks is herein respectfully requested.

After entering this Amendment, claims 2-11 and 13-24 remain pending.

Rejections Under 35 U.S.C. § 103

Claims 4-10, 15-21, and 23-24 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 2002/0055339 to Rogson et al. (Rogson) in view of U.S. Patent No. 5,918,213 to Bernard et al. (Bernard), and U.S. Patent No. 7,143,040 to Durston et al. (Durston).

Claim 23 and 24 recite that a template is selected from a plurality of predefined templates and portions of the transmission information are inserted into the template creating a message.

Rogson does not at all contemplate the use of templates. Only Rogson is concerned with a radio comparable to the claimed invention. While Bernard does discuss stringing together the introduction and title, it does not contemplate using a variety of templates. Bernard is concerned with a selling music over the internet not a receiver system. Seperately, Durston the only reference that contemplates a plurality of templates is in an entirely different field related to an automated customer service system, for example, for receiving calls over a telephone. As such, the applicant submits that the combination of these references is improper.

"For the teachings of a reference to be prior art under Section 103, there must be some basis for concluding that the reference would have been considered by one skilled in the particular art working on the pertinent problem to which the invention

pertains." *In re Horn,* 203, USPQ 969, 971. However, the examiner has not identified why one of ordinary skill in the art would consider an online customer service system when developing an interface for a receiver system. "[I]t can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does. This is so because inventions in most, if not all, instances rely upon building blocks long since uncovered, and claimed discoveries almost of necessity will be combinations of what, in some sense, is already known." *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007).

Claims 4-10 and 15-21 depend from claims 23 or 24 and are, therefore, patentable for at least the same reasons as given above in support of claims 23 and 24 above.

With regard to claims 4 and 5, the examiner has not identified the claimed elements in the cited references. Claim 4 recites that the text-to-speech generator selects a template from the plurality of predefined templates based on the transmission information. The examiner contends that the mention in Bernard of "stringing together …announcement of the title" teaches this element. Bernard does select a pre-recorded title segment corresponding to the song title. However, the template (the ordering of the pre-recorded segments) in Bernard is predefined and not based on transmission information (or artist information – as defined claim 5). Therefore, the cited references do not teach or suggest the elements of claims 4 and 5 for at least these reasons as well.

Claims 2-3 and 13-14 were rejected under 35 U.S.C. §103(a) as being unpatentable over Rogson, in view of to Bernard and Durston as applied to claims

23-24, above, and further in view of U.S. Patent No. 6,144,938 to Surace et al. (Surace).

Claims 2-3 and 13-14 depend from claims 23 or 24 and are, therefore, patentable for at least the same reasons given above in support of claims 23 and 24.

Claims 3 and 14 recite that the template is selected based on a counter to index through each template. The examiner contends that the clock is a counter. However, as discussed in the Surace reference a primary objective is to randomize the response. Since the time at which the response would be played would be random the system of Surace would not index through each template as claimed. Indexing through each template would provide a better distribution of responses for each template rather than serving the randomization objective of Surace. As such, claims 3 and 14 are patentable for at least these reasons as well.

Claims 11 and 22 were rejected under 35 U.S.C. §103(a) as being unpatentable over Rogson, in view of to Bernard and Durston as applied to claims 23-24, above, and further in view of U.S. Publication No. 2002/0087224 to Barile (Barile).

Claims 11 and 22 depend from claims 23 and 24, respectively, and are, therefore, patentable for at least the same reasons given above in support of claims 23 and 24.

In addition, claims 11 recites that an audio summer is configured to combine the message with a music signal thereby providing the message and music signal simultaneously. Similarly, claim 22 recites "summing the message with a corresponding music signal thereby providing the message and music signal simultaneously". This is contrary to the teachings of the prior art. Specifically, Barile teaches concatenating the message and the music file. Concatenating would result

in a sequential playing of the message and then the music. Further, the primary reference Rogson teaches in paragraph [0039] that the system "replaces the normal output of the radio with the oral presentation of the title of the work. Once the title of the work has been presented, the stereo system of the car returns to normal output of the work." As such, the prior art teaches against using a summer to combine the message with the music signal. Accordingly, claims 11 and 22 are patentable for at least these reasons as well.

Conclusion

In view of the above amendments and remarks, it is respectfully submitted that the present form of the claims are patentably distinguishable over the art of record and that this application is now in condition for allowance. Such action is requested.

Respectfully submitted by,

Dated: February 17, 2009

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